

BEFORE THE
Federal Communications Commission
WASHINGTON, D.C. 20554

In the Matter of)	
)	
Improving Public Safety)	
Communications in the)	
800 MHz Band)	WT Docket No. 02-55
)	
Consolidating the 900 MHz)	
Industrial/Land Transportation)	
and Business Pool Channels)	

TO: The Commission

REPLY COMMENTS OF SCANA CORPORATION

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Dated: August 7, 2002

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EXECUTIVE SUMMARY

As the comments submitted in this proceeding clearly demonstrate, there is an insufficient amount of evidence to determine the actual scope and extent of interference that Public Safety licensees are subject to from commercial licensees. Many commentators, including Public Safety licensees, believe that the Commission needs to investigate thoroughly its options on how to minimize interference to Public Safety licensees before realigning the 800 MHz band. Commentors are properly concerned that, if an investigation is not conducted, the Commission will not be in a position to adopt an efficient and effective solution to resolve the interference.

As part of its investigation, the Commission should determine whether licensees are complying with all of the Commission's rules. In particular, licensees must comply with the technical restrictions and must cooperate to resolve any interference problems. Even if the Commission's technical rules do not prohibit operations that cause interference, the interfering party is still required to resolve the interference through mutually satisfactory arrangements.

Numerous commentators also urge the Commission to facilitate a market-based approach to resolve the interference problems while investigating the root causes of the interference. The comments recognize that the market-based approach is the most efficient approach as it will not require broadband, unnecessary relocation, and will permit the use of the most appropriate measures in a given case.

The commentators also widely recognize that the realignment proposals set forth in this proceeding are not appropriate. The comments indicate that any realignment plan that results in both Public Safety and commercial licensees using the 800 MHz band will not

eliminate interference to Public Safety licensees by itself and, perhaps, not at all. The proponents of realigning the 800 MHz band fail to demonstrate the extent to which realignment would be effective or that technical and other solutions cannot manage the interference problem without the need for realignment.

In particular, Nextel's plan was overwhelmingly opposed by the vast majority of commentors because: (1) secondary status for Business and I/LT licensees is unacceptable; (2) the replacement spectrum is inadequate; (3) all 800 MHz licensees will have to pay at least some of their relocation costs; and (4) Nextel's plan violates the Commission's policy of providing for reimbursement of licensees that are involuntarily relocated.

If rebanding is ultimately deemed necessary, SCANA believes that the Commission should adopt the Coalition for Constructive Public Safety's proposals to relocate Public Safety licensees to the 700 MHz band. This plan has broad support in the comments because it will minimize the burdens on existing licensees, provide additional spectrum for Public Safety, and fund the relocation of Public Safety to the 700 MHz band.

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REPLY COMMENTS OF SCANA CORPORATION

SCANA Corporation (“SCANA”) by and through its undersigned counsel, hereby files these reply comments in the above referenced proceeding. In this proceeding, the Federal Communications Commission (“Commission” or “FCC”) issued a Notice of Proposed Rulemaking (“NPRM”) requesting comments on how best to remedy interference to 800 MHz Public Safety systems.¹ Along with SCANA, a significant number of commentators urge the Commission not to adopt a radical approach to the interference problem based on the limited amount of information available. The comments express strong support for an efficient approach that makes use of, and builds on, existing regulatory and technical tools to resolve Public Safety

¹ *In the Matter of Improving Public Safety Communications in the 800 MHz Band; Consolidating the 900 MHz Industrial/Land Transportation and Business Pool Channels*, WT Docket No. 02-55, *Notice of Proposed Rulemaking* (March 15, 2002) (“NPRM”). The *NPRM* was published in the Federal Register on April 5, 2002, 67 Fed. Reg.16351.

interference effectively and with a minimum of cost and disruption. SCANA submits that the broadbased agreement in the comments evidences the inherent superiority of a measured approach.

I. INTRODUCTION

In its comments, SCANA urged the Commission to adopt a market-based approach to resolve the interference problems of Public Safety licensees, rather than the drastic proposals set forth in the NPRM.² In contrast to those proposals, a market-based approach employing technical and other solutions has been shown to be effective and would involve disruption and expense that is proportionate to the problem. Such an approach would establish a framework of rules in which: (1) the Commission has defined parameters to facilitate the identification of facilities likely to cause interference to Public Safety systems; (2) the responsibilities of each party to resolve the interference are clear; (3) well-defined timeframes ensure swift resolution of interference; (4) parties may use a range of options to resolve interference issues; and (5) procedures for third-party arbitration of disputes minimize the Commission's involvement. This approach, which is consistent with a large number of the comments filed in this proceeding, is the most efficient and practical means by which the Commission can ensure that Public Safety interference is eliminated, without engaging in a wasteful and unwarranted realignment in the 800 MHz band.

² Comments of SCANA Corporation, WT Docket No. 02-55 (May 6, 2002).

II. NUMEROUS COMMENTORS SHARE SCANA’S VIEW THAT THE COMMISSION MUST HAVE FURTHER INFORMATION ON THIS MATTER

In the *NPRM*, the Commission requests comments on the scope and the technical reasons that Public Safety licensees are subject to harmful interference. SCANA submits that, even with the filing of comments in this proceeding, there is an insufficient amount of evidence to determine the actual scope and extent of interference. SCANA urges the Commission not to implement extraordinarily disruptive measures based on the limited amount of information available.

SCANA is concerned that the Commission could impose billions of dollars in cost on licensees without having sufficient information and strongly agrees with the American Petroleum Institute that the Commission should “develop and analyze adequate technical information before embarking on a path towards band reconfiguration.”³ As the American Mobile Telecommunications Association points out, the record is “devoid of data” that would show in-band realignment to be an effective tool to resolve the interference problem.⁴ Furthermore, Public Safety licensees recognize that the full scope and causes of the problem are unknown and that the public will not be served by the Commission making a quick decision that is not fully informed. In this regard, SCANA concurs with the Dallas Area Rapid Transit Authority, which recommends that the Commission conduct “a thorough study of all costs involved in relocating

³ Comments of American Petroleum Institute, WT Docket No. 02-55 at 3 (May 6, 2002) (“*API Comments*”).

⁴ Comments of American Mobile Telecommunications Association, Inc., WT Docket No. 02-55 at 6 (May 6, 2002). As discussed in Section V(A), the comments actually indicate that a realignment plan that results in both Public Safety and commercial licenses remaining in the 800 MHz band will not resolve the interference problems.

users, and [a] thorough engineering study of all possible alternatives.”⁵ The State of Florida, which experiences dead spots as a result of Nextel’s system, believes that “in view of the enormous cost, complexity, and time required to accomplish band restructuring, . . . [the Commission should] thoroughly investigate all possible non-restructuring options for mitigating the problem.”⁶ The City of Baltimore and the International Association of Fire Chiefs both filed comments supporting further investigation of the interference problem.⁷ As the IAFC stated, the Commission should not implement a “band restructuring proposal which will cost well in excess of One Billion Dollars and entail substantial disruption of communication system operation . . . without assurance that the plan adopted in fact constitutes a solution to the interference problem.”⁸

The Commission needs to gather “quantified data concerning the number of interference complaints.”⁹ The record contains a very limited number of reported interference complaints and it is impossible to know whether this small sample accurately represents the real problem. APCO claims that there are many more instances of interference that are not reported. If this is true, it raises the possibility of adopting a solution that only addresses the causes of interference reported to date, which may not be characteristic of the majority of incidents of interference.

⁵ Comments of Dallas Area Rapid Transit Authority, WT Docket No. 02-55 at 3 (May 6, 2002). (“*Dallas Comments*”).

⁶ Comments of State of Florida, WT Docket No. 02-55 at 1 (May 6, 2002) (“*Florida Comments*”).

⁷ Comments of City of Baltimore, Maryland, WT Docket No. 02-55 at 6 (May 6, 2002); Comments of International Association of Fire Chiefs, Inc. and International Municipal Signal Association, WT Docket No. 02-55 at 4 (May 6, 2002). (“*IAFC Comments*”).

⁸ *IAFC Comments* at 4.

⁹ Comments of Kenwood Communication Corporation; WT Docket No. 02-55 at 2 (May 6, 2002).

The concerns about the lack of adequate information are well founded. Although many commentators are rightly concerned with alleviating interference quickly, it is equally important for the Commission to adopt a solution that will actually solve the problem in a cost-effective and equitable fashion. Without more information, the Commission may take action that is not proportionate to the problem or that does not fully address the root causes. If this were to occur, the Commission may have to revisit this issue again, and adopt measures to address the continuing problem.

Since the Commission adopted the interleaved band plan twenty years ago, events have occurred that the Commission did not anticipate. By gathering sufficient information, the Commission can avoid adopting measures that do not adequately resolve interference or that do so in a grossly inefficient fashion. A mechanism to effect this is already in place. The Commission recently formed the Spectrum Policy Task Force to evaluate its existing spectrum policies.¹⁰ Included in the evaluation are a number of issues that are relevant to this proceeding, such as whether more explicit interference protections are necessary and whether the Commission should adopt processes to resolve interference issues more expeditiously.¹¹ Once the Commission develops a general policy it should initiate a rulemaking proceeding to determine how these general policies should be applied to the 800 MHz band. This will provide the Commission with an opportunity to develop an understanding of the reasons that Public Safety licensees are subject to interference so that the existing problems, or other problems, do not reappear later.

¹⁰ *FCC Public Notice, Spectrum Policy Task Force Seeks Public Comment On Issues Related To Commission's Spectrum Policies*, DA 02-1311, ET Docket No. 02-135 (released June 6, 2002).

¹¹ *Id.* at 4.

III. LICENSEES THAT ARE COMPLYING WITH ALL COMMISSION RULES SHOULD NOT CAUSE INTERFERENCE

In the *NPRM*, the Commission stated that CMRS licensees could be interfering with Public Safety licensees even though “all parties involved may be operating in compliance with the Commission’s rules.”¹² SCANA agrees with commentors that find this statement to be contradictory.¹³ Licensees must comply with the Commission’s technical standards and they must also “cooperate and resolve [harmful interference] . . . by mutually satisfactory arrangements.”¹⁴ As C & M Communications declares, “one of the first and most prominent duties of a licensee is to avoid and correct incidents of harmful interference.”¹⁵ This duty was imposed because the Commission recognized that licensees could comply with the technical restrictions, yet still interfere with other licensees.¹⁶

A. Even If Nextel Is In Compliance With The Technical Standards, It Can Still Cause Interference To Public Safety Licensees Because The Commission Standards Were Not Designed To Deal With Every Unique Situation

The Commission’s technical restrictions were not designed to address every unique situation. Often, after regulations are implemented, new technology will develop that the Commission did not anticipate and spectrum is used in ways that were not foreseen. In this case,

¹² *NPRM* at ¶ 15.

¹³ Comments of Carolina Power and Light Company and TXU Business Services, WT Docket No. 02-55 at 6-7 (May 6, 2002) (“*Carolina and TXU Comments*”); Letter from Dennis Brown to Chairman Thomas Sugrue dated December 17, 2001 at 3-4.

¹⁴ 47 C.F.R. § 90.173(b) (2001).

¹⁵ Comments of C & M Communications Inc., WT Docket No. 02-55 at 4 (May 6, 2002).

¹⁶ See e.g. *In the Matter of Application of Landlinx Communications to Operate Station WPMP955, in Various Locations in the United States*, File No. C002966, *Memorandum Opinion and Order*, 16 FCC Rcd 20552 (2001).

“Nextel’s use of the non-cellular portion of the 800 MHz band for a digital cellular system serving the public at large puts it virtually in a licensee-class of its own.”¹⁷ Unfortunately the result has been that Nextel’s communications are “far more disruptive to public safety operations than are cellular operations and, indeed, constitute the primary cause of disruption to public safety services.”¹⁸ If, as Nextel claims, the interference it is causing is not the result of technical violations of the Commission’s rules, this is simply because the technical problems Nextel’s system creates could not have been foreseen by the Commission.

Fortunately, the Commission anticipated that its technical rules could not cover every conceivable circumstance and implemented Section 90.173 to address interference problems in general. Under Section 90.173, licensees are required to cooperate to resolve interference through mutually satisfactory arrangements.¹⁹ If the parties fail to cooperate, “the Commission may impose restrictions including specifying the transmitter power, antenna heights, or area or hours of operation.”²⁰ As discussed below, this mechanism should serve as the foundation for the Commission’s approach to the interference problem.

B. The Commission Should Implement Rule Changes To Confirm Licensees’ Obligations And To Facilitate Resolution Of Interference

In accordance with Section 90.173, commercial carriers, like Nextel, must respond to interference complaints and cooperate to resolve them. SCANA is greatly concerned by reports

¹⁷ *Carolina and TXU Comments* at p 6 n.9 citing *In The Matter of Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993; Annual Report and Analysis of Competitive Market Conditions With Respect To Commercial Mobile Services; Fifth Report*; 15 FCC Rcd 17660, 17689 n.185, (2000).

¹⁸ *Comments of AT&T Wireless Services, Inc.*, WT Docket No. 02-55 at 6 (May 6, 2002).

¹⁹ 47 C.F.R. § 90.173(b) (2001).

²⁰ *Id.*

that commercial carriers are not meeting this obligation. For example, the City of Portland's complaint calls to Nextel "were basically unanswered" until the press reported the extent of Portland's interference problem.²¹ Some commercial carriers also refused to cooperate with the Utah Communications Agency Network to resolve their interference problems during the Winter Olympics.²² To rectify this situation, the Commission should confirm licensees' obligation to resolve interference and institute enforcement proceedings as necessary to ensure that licensees take this obligation seriously. As set forth in SCANA's comments, by building on the requirements of Section 90.173, the interference problem could be alleviated.

IV. THE COMMISSION SHOULD ADHERE TO A MARKET-BASED APPROACH UNLESS AND UNTIL A MORE EFFECTIVE AND EFFICIENT APPROACH IS DEVELOPED BASED UPON A FULL INVESTIGATION OF THE CIRCUMSTANCES

In the *NPRM*, the Commission asked commentors to describe their proposals in sufficient detail so the Commission could determine whether the proposal met the Commission's goal of "resolving interference with minimum disruption to existing services."²³ Many commentors share SCANA's view that a market-based approach meets the Commission's goal because it "can adequately resolve the core interference problem without radical rebanding and large, unnecessary expenditures."²⁴ This will permit the Commission to accommodate "disparate radio systems in the 800 MHz band, and minimize, if not eliminate, detrimental impacts to other users

²¹ Comments of City of Portland, Oregon, WT Docket No. 02-55 at 3 (May 6, 2002) ("*Portland Comments*").

²² Comments of Utah Communications Agency Network, WT Docket No. 02-55 at ¶ 9 (May 6, 2002).

²³ *NPRM* at ¶ 5.

²⁴ Comments of Entergy Corporation and Entergy Services, Inc., WT Docket No. 02-55 at 8 (May 6, 2002) ("*Entergy Comments*").

of the band.”²⁵ UTC also advocates a market-based approach, because it will “eliminate interference at a lower cost than mandatory rebanding, while fostering upgraded technology that will improve the utility of the [800 MHz] band to its users in years to come.”²⁶

A. The Comments Demonstrate That Technical Measures Are An Effective Means Of Resolving Interference Problems

While the parties would be free to use a wide variety of measures to resolve interference under a market-based approach, SCANA anticipates that technical solutions would play a key role based on their proven efficiency and effectiveness. As the Commission notes in the *NPRM*, the purpose of this proceeding is to “solicit proposals on how best to remedy interference to 800 MHz public safety systems.”²⁷ The comments substantiate SCANA’s assertion that technical solutions can meet this objective. Public Safety licensees also endorse this viewpoint because realigning the 800 MHz band will inflict tremendous burdens and costs.

1. Technical Solutions Have Successfully Been Implemented To Resolve Interference Problems

The comments provide ample evidence to support SCANA’s position that technical solutions can be used to alleviate harmful interference. For example, one apparent cause of increased interference appears to be Nextel’s use of hybrid combiners, which do not “provide any attenuation of transmitter sideband noise and spurious products, and can cause an elevated

²⁵ Comments of Cinergy Corporation, WT Docket No. 02-55 at 9 (May 6, 2002).

²⁶ Comments of United Telecom Council, WT Docket No. 02-55 at 14 (May 6, 2002) (“*UTC Comments*”).

²⁷ *NPRM* at ¶ 2.

noise floor in the vicinity of the Nextel station.”²⁸ Nextel appears to be inflicting this additional interference on other licensees because hybrid combiners give Nextel “flexibility and cost savings in systems design and implementation.”²⁹ When confronted with the fact that its hybrid combiner is causing interference, Nextel has been able to resolve the problem by installing a different type of combiner. Frontier Radio reports that Nextel resolved an interference problem at the Las Vegas Convention Center by replacing its hybrid combiner.³⁰

A lack of selectivity by Public Safety receivers has also contributed to the interference problem. The City of Portland found that adding a single component costing less than ten cents to its receiver circuit greatly improved the receiver’s performance in high RF areas.³¹ Another solution was developed by the State of Florida, which inserted a pad to reduce the signal strength of both the desired and undesired signals so that it could successfully operate its mobile receivers.³²

The *Best Practices Guide* also specifies numerous other ways to minimize interference. Motorola reports that in Salt Lake City during the Winter Olympics, Public Safety, commercial and private wireless licensees successfully utilized the *Best Practices Guide* to resolve instances of interference.³³

²⁸ Comments of Department of Information Technology, Fairfax County, Virginia WT Docket No. 02-55 at ¶ 14 (May 6, 2002) (“*Fairfax Comments*”).

²⁹ Comments of Aeronautical Radio, Inc. et al, WT Docket No. 02-55 at 14 (May 6, 2002).

³⁰ Comments of Delmarva Power & Light Company and Atlantic City Electric Company, WT Docket No. 02-55 at 14-15 (May 6, 2002).

³¹ *Portland Comments* at 5.

³² *Florida Comments* at 7.

³³ Comments of Motorola Inc., WT Docket No. 02-55 at 11 (May 6, 2002) (“*Motorola Comments*”).

2. Public Safety Licensees Support The Use Of Technical Solutions To Resolve Interference Problems

Public Safety licensees concur with SCANA that technological solutions can be used to resolve interference problems. Fairfax County found that “interference to Public Safety licensees can be corrected . . . by using good engineering practice[s] and proven interference mitigation techniques.”³⁴ The State of Florida supports the use of technical solutions because “any feasible option short of band restructuring would be highly attractive in view of the enormous burdens that restructuring would impose.”³⁵ The Gainesville Police Department agreed that “many of these interference problems have technical solutions that should be explored prior to enforcing any global changes in the spectrum.” Similarly, the Dallas Area Rapid Transit Authority also “supports [the] use of technical and technological responses to the [interference] problem.”³⁶ The examples provided by the commentors clearly establish that numerous solutions already exist to resolve harmful interference.³⁷ SCANA submits that the success of the measures indicates that it is not necessary to implement sweeping and costly changes such as realigning the 800 MHz band.

B. It Is Much More Logical To Implement Market-Based Solutions And Determine The Extent Of The Problem Before Proposing Drastic Measures Such As Reallocating The 800 MHz Band

The proponents of realigning the 800 MHz band fail to articulate why this approach is necessary or desirable when technical solutions are a proven mechanism for resolving

³⁴ *Fairfax Comments* at ¶ 25.

³⁵ *Florida Comments* at 8.

³⁶ *Dallas Comments* at 2.

³⁷ See e.g. Comments of Southern LINC, WT Docket No. 02-55 at 18-21 (May 6, 2002).

interference complaints and will need to be implemented in the future. As Verizon Wireless explains, “the Commission should pursue less radical, costly, and disruptive measures for eliminating or mitigating interference before considering a wholesale realignment of the band.”³⁸

Another factor favoring the use of technical solutions is the fact that the system architecture of Public Safety licensees will probably evolve to resemble the system architecture of the CMRS providers. When this occurs, it will alleviate the interference problems because Public Safety systems will be more compatible with CMRS operations. Verizon Wireless states that the evolution of Public Safety networks “from a ‘single base station/high site’ architecture to a ‘multiple base station/low site’ architecture will . . . [substantially reduce] the potential for harmful interference.”³⁹ One commentator even notes that “public safety has begun to model its architecture after the cellular type model.”⁴⁰ By implementing technical solutions, and as Public Safety licensees operate more advanced communications systems, the interference problem can be eliminated without realigning the 800 MHz band.

C. A Market-Based Approach Offers Significant Benefits

As the comments demonstrate, a market-based approach, which utilizes technological or other solutions, is the most efficient way to resolve the harmful interference because: (1) it minimizes the burden on existing licensees; (2) the parties can utilize a variety of options to resolve the interference; and (3) the interfering party would be responsible for resolving the interference problem.

³⁸ Comments of Verizon Wireless, WT Docket No. 02-55 at 8 (May 6, 2002).

³⁹ *Id.* at 10.

⁴⁰ Comments of Coupe Communications, Inc., WT Docket No. 02-55 at 3 (May 6, 2002).

1. A Market-Based Approach Will Minimize The Disruption To Existing Licensees

A number of commentors agree that any plan that is adopted should minimize the disruption to existing licensees.⁴¹ The market-based approach is the least disruptive to all licensees because no licensee would be required to relocate involuntarily. In contrast, a broadly mandated relocation of Public Safety and critical infrastructure licensees has the potential to cause grave consequences for licensees. During a mandatory relocation process, licensees would have to effect global cut-overs to new spectrum, with gaps in communications a likelihood. This in turn would compromise “critical services in emergency situations.”⁴²

As the comments point out, it is unacceptable to implement a solution that could endanger the communications of licensees that serve the public. Under a market-based approach, resolution of interference problems would be targeted to the sites and frequencies experiencing interference and may not involve any changes affecting the interference victim. To the extent that technical changes to the victim's system were necessary, they could be orchestrated to minimize or eliminate disruption.

2. A Market-Based Solution Will Allow The Parties To Utilize A Variety Of Options To Reduce Interference

Both the *NPRM* and numerous commentors identified several causes of interference to Public Safety systems, including receiver overload, intermodulation and transmitter sideband noise.⁴³ Commentors agreed with SCANA’s view that a significant benefit of the market-based

⁴¹ See e.g. *UTC Comments* at 11.

⁴² Comments of Exelon Corporation, WT Docket No. 02-55 at 6 (May 6, 2002) (“*Exelon Comments*”).

⁴³ See e.g. *NPRM* at ¶ 15; *Motorola Comments* at 15-16.

solution is that parties can utilize an assortment of different measures to reduce interference. As Motorola explains, “resolving interference cannot be reduced to a ‘one size fits all’ solution.”⁴⁴ Therefore, the market-based approach is the most efficient solution because it implements a “framework under which a variety of approaches could be implemented to resolve interference problems based on the particular circumstances.”⁴⁵

Although SCANA does not believe that wholesale realignment of the 800 MHz band is appropriate, voluntary, case-by-case relocation could be an effective tool for parties seeking to resolve interference, particularly Nextel. By its own account, Nextel has approximately 18 MHz of spectrum in the 800 MHz band, constituting a vast resource of spectrum to use in the resolution of interference.⁴⁶ Subject to Commission approval, Nextel could engage in frequency swaps or other frequency arrangements to resolve any interference complaints. The Commission could implement a “flexible licensing scheme” along with the market-based approach, which would allow Public Safety licensees to license channels outside their allocation to resolve interference problems. As Carolina Power & Light Company and TXU Business Services note, such an approach would “allow the affected parties to determine, case by case, whether a more efficient solution would be to remedy the interference problem . . . [by moving the licensee] to other frequencies that are acceptable.”⁴⁷ The American Petroleum Institute concurs that the Commission should “provide licensees with the regulatory flexibility needed to effectuate individualized channel swaps between commercial and public safety systems . . . where

⁴⁴ *Motorola Comments* at 10.

⁴⁵ Comments of Xcel Energy Services, Inc., WT Docket No. 02-55 at 6-7 (May 6, 2002).

⁴⁶ Comments of Nextel Communications, Inc., WT Docket No. 02-55 at 1 (May 6, 2002) (“*Nextel Comments*”)

⁴⁷ *Carolina and TXU Comments* at 19.

considered necessary to resolve a particular interference case.”⁴⁸ Therefore, under a market-based approach, Nextel would be able to implement a targeted realignment of the 800 MHz band to resolve any specific or anticipated interference problems.

3. The Market Based Solution Is Equitable And Efficient Because The Interfering Party Would Be Responsible For Resolving The Interference

Numerous commentors have expressed outrage that they might have to pay to relocate themselves and possibly Public Safety licensees as well, even though they are not causing *any* interference. This would be an unacceptable outcome for licensees that are complying with the regulations and not causing interference.⁴⁹ The overwhelming majority of commentors argued that the interfering party should bear the costs of resolving the interference. The American Electric Power Company believes that “innocent parties should not be required to . . . participate in a compensation program for public safety brought about by the actions of another party.”⁵⁰ A clear majority of commentors maintain that the interfering parties “must bear the costs of eliminating interference to Public Safety operations.”⁵¹

The market-based solution addresses these concerns. Under this proposal, the interfering party would be responsible for resolving the interference problems and paying any costs associated with the solution. Licensees that are not interfering with Public Safety systems would not have to relocate or bear any costs. This is an equitable solution that limits a licensee’s

⁴⁸ *API Comments* at 7.

⁴⁹ See e.g. Letter from Jay Jenkins to William Caton, WT Docket No. 02-55 (April 8, 2002) (The cost of requiring companies to switch bands “could be astronomical, and in many cases financially devastating.”).

⁵⁰ Comments of American Electric Power Company, WT Docket No. 02-55 at 12 (May 6, 2002).

⁵¹ Comments of Duke Energy Corporation, WT Docket No. 02-55 at 6 (May 6, 2002).

contribution to the instances where it is causing interference and thus represents the only equitable approach put forth in the proceeding.

4. The Concerns Expressed About The Market-Based Solution Are Misplaced

Although many commentors support a market-based approach, a few commentors express concern about two aspects of the plan. Specifically, commentors express concern that under a market-based approach: (1) interference would not be resolved until after it was reported; and (2) Public Safety licensees would not be allocated any additional spectrum.

a. A Market-Based Approach Will Address Interference Problems Before They Arise.

A few commentors express concern that a market-based approach would eliminate interference problems on a case-by-case basis only after they arose.⁵² The Commission, however, has previously implemented measures to protect Public Safety licensees against interference from CMRS licensees on a case-by-case basis and found that it would address interference problems before they occur.⁵³ This approach was adopted because it is “more focused on the circumstances likely to occasion interference” and is preferable to an across-the-board solution.⁵⁴

⁵² See e.g. Association of Public-Safety Communications Officials International, Inc, National Association of Counties, National League of Cities, National Association of Telecommunications Officers and Advisors, WT Docket No. 02-55 at 9-10 (May 6, 2002) (“APCO Comments”).

⁵³ *Petitions for Reconsideration of the Second Memorandum Opinion and Order, Service Rules for the 746-764 and 776-794 MHz Bands, and Revisions to Part 27 of the Commission’s Rules*, WT Docket No. 99-168, *Third Memorandum Opinion and Order*, FCC 02-204 at ¶ 18 (July 12, 2002).

⁵⁴ *Id.* at ¶ 16.

In this instance, by clarifying and building on the current interference resolution framework the Commission would reinforce incentives to avoid interference before it arises. The establishment of limited timeframes for response to complaints, and the firm obligation to resolve them will serve to motivate licensees to anticipate and avoid interference situations in advance of station operation, when they can be resolved in accordance with the licensee's own timeframe and possibly in a more economical fashion. In this regard, Consumers agrees with Skitronics that a market-based approach "would encourage businesses to . . . [develop] the most efficient and effective solutions."⁵⁵ Reinforcing the parties' obligations will encourage the development and implementation of wide-scale preventive measures, such as equipment modifications, as licensees pursue the most economic ways to avoid causing interference.

b. The Primary Purpose Of This Proceeding Is To Determine
How To Best Eliminate Harmful Interference To Public
Safety Licensees

Commentors also express concern that the market-based solution does not provide additional spectrum for Public Safety licensees. As a critical infrastructure licensee, Consumers is sensitive to Public Safety's need for adequate spectrum. However, this proceeding is not the appropriate forum to address this issue. Consideration of the multiple, complex issues and interests associated with additional Public Safety allocation will add significant delay to resolving the issue that gave rise to this proceeding, which is interference to Public Safety licensees. There is no logical reason for the two issues to be intertwined because providing additional spectrum for Public Safety licensees is not a necessary component of resolving the

⁵⁵ Comments of Skitronics, LLC, WT Docket No. 02-55 at 36 (May 6, 2002).

interference problem. Therefore, these issues should be considered separately so as not to unduly impede the ultimate success of this proceeding.

V. THE COMMENTORS RECOGNIZE THAT REALIGNMENT PROPOSALS SET FORTH IN THIS PROCEEDING ARE NOT THE ANSWER

Rather than adopting a market-based approach, some commentors propose that the 800 MHz band should be realigned to address the interference problems. They believe that eliminating the interleaving of Public Safety and commercial channels will help resolve the interference experienced by Public Safety licensees. As discussed below, the comments clearly show that realigning the 800 MHz band to relocate I/LT and Business licensees is not appropriate.

A. The Comments Call Into Question The Effectiveness Of Realignment As A Solution To The Interference Problem

For the Commission to realign the 800 MHz band, it must have a sound basis for concluding that this solution is necessary to resolve the interference problems. The comments indicate, however, that any realignment plan that results in both Public Safety and commercial licensees using the 800 MHz band will not eliminate interference to Public Safety licensees by itself and perhaps not at all. Even the primary advocate for realigning the 800 MHz band, Nextel, acknowledges that rebanding alone would not resolve the interference problems.⁵⁶ Although Nextel claims that realigning the 800 MHz band is necessary, its equipment manufacturer, Motorola, believes that “the most effective solution . . . is dependent on the

⁵⁶ *Nextel Comments* at 23-25.

specific circumstances involved [and that] there is no one ‘silver bullet’ solution that can fully resolve the complexities of interference in the 800 MHz band.”⁵⁷

The proponents of realigning the 800 MHz band fail to demonstrate the extent to which realignment would be effective or that technical and other solutions cannot manage the interference problem without the need for realignment. Given this uncertainty, the Commission cannot reasonably implement a realignment plan. The worst possible outcome for this proceeding would be the adoption of a plan that imposes tremendous costs but does not resolve the interference problem.

Both the NAM and FCC plans recognize that the interference problems will remain even if the 800 MHz band is realigned. To protect Public Safety licensees from interference, these plans use the Business and I/LT spectrum as “a barrier against transmitter sideband noise and receiver overload.”⁵⁸ Instead of resolving the interference, Business and I/LT licensees are subjected to the interference and used as a buffer. SCANA strongly agrees with Pinnacle West that it is “unacceptable” to use Business and I/LT spectrum as a guard band to protect Public Safety licensees from interference.⁵⁹ The Commission must resolve the interference problems for all licensees rather than shifting it elsewhere.

If the Commission does not resolve the interference problems for all licensees, then some Public Safety entities will be still be subject to harmful interference. SCANA, and a number of other utilities, share their communications systems with Public Safety entities and have a mutual need to coordinate activities. The Commission should adopt a solution that is designed to

⁵⁷ *Motorola Comments* at ii-iii.

⁵⁸ Comment of TRW, Ohio MARC Program Office, WT Docket No. 02-55 at 6 (May 6, 2002).

⁵⁹ Comment of Pinnacle West Capital Corporation, WT Docket No. 02-55 at 20 (May 6, 2002).

eliminate interference for everyone. This will ensure that all Public Safety agencies will be able to communicate in an interference free environment regardless of the system they use.

B. The Record Demonstrates That The Proposed Realignment Plans Are Significantly Flawed

The record demonstrates the extraordinary hardship that would result from the proposals to realign the 800 MHz band. Retuning Public Safety systems is much more involved than “just re-programming radios.”⁶⁰ As Motorola notes, in many instances “retuning may not be possible or practicable.”⁶¹ Instead of reprogramming the base stations and mobile units, the comments demonstrate that Public Safety licensees will need to build completely new communications systems to ensure that they have uninterrupted service.⁶²

Public Safety licensees are also concerned about the burdens that will be imposed if the 800 MHz band is realigned. As the New York City Transit Authority notes, rebanding will “place a great strain on personnel and other resources during this transition period.”⁶³ The Commonwealth of Virginia agrees that it would be “overly burdened with relocation.”⁶⁴ Restructuring the 800 MHz band “will disrupt many more systems than those that are currently impacted by interference.”⁶⁵

⁶⁰ Comment of Commercial Radio and Television Inc., WT Docket No. 02-55 at 2 (May 6, 2002).

⁶¹ *Motorola Comments* at 22.

⁶² *Motorola Comments* at 23; Comments of E.F. Johnson, WT Docket No. 02-55 at 2 (May 6, 2002).

⁶³ Comments of New York City Transit Authority, WT Docket No. 02-55 at 9 (May 6, 2002).

⁶⁴ Comments of Commonwealth of Virginia, WT Docket No. 02-55 at 4 (May 6, 2002).

⁶⁵ Comments of American Water Works Association, WT Docket No. 02-55 at 2 (May 6, 2002).

As set forth herein, there is currently insufficient information in the record to support the use of rebanding as a solution to Public Safety interference. Furthermore, with the exception of the 700 MHz relocation plan discussed in Section VI., below, the rebanding plans put forth to date suffer from serious flaws that make them unacceptable to the potentially affected parties. For example, none of these proposals can ensure relocatees of receiving comparable replacement spectrum within the 800 MHz band on a one-for-one basis. Incumbents must be absolutely assured of equivalent performance following relocation before they are required to take any steps to relocate. This would require that relocatees receive spectrum that operates in fundamentally the same way as their current spectrum. As a corollary to this, relocatees would have to have access to growth spectrum following relocation to at least the extent that they do currently.

Additionally, and as discussed extensively in SCANA's comments, any rebanding plan would have to assure *all* relocatees of full funding of reasonable costs of their transition. Relocation would also have to follow a predictable course, established at the outset. The extent of disruption brought on by relocation would be greatly increased if multiple relocations are permitted or if a single system is subject to relocation terms that develop or change over the course of the relocation. To the extent that it adopts relocation, the FCC can not allow this to occur.

Finally, relocation must not involve unnecessary restrictions on technical operations. Relocation plans set forth to date involve restricting the type of operations that will be permissible in the reconfigured bands. Such restrictions should not have the effect of unduly restricting the flexibility of I/LT and other incumbents from implementing new or alternate technologies that will not necessarily result in interference.

C. The Commentors Overwhelmingly Opposed Nextel's Realignment Proposal

Although a few commentors support Nextel's proposal, the majority are overwhelmingly opposed to the plan for a number of reasons. The commentors state that Nextel's plan should be rejected because: (1) secondary status for Business and I/LT licensees is unacceptable; (2) the replacement spectrum is inadequate; (3) all 800 MHz licensees will have to pay at least some of their relocation costs; and (4) Nextel's plan violates the Commission's policy to reimburse licensees that are involuntarily relocated.

1. Secondary Status Is Unacceptable For Utilities Because They Need Reliable, Seamless Communications To Ensure That They Can Conduct Their Critical Communication

In an apparent effort to minimize the enormous disruption that Nextel's plan would impose on Business and I/LT licensees, Nextel proposed that these licensees would be allowed to continue to utilize the 800 MHz band, but only on a secondary, non-interference basis vis-a-vis Public Safety licensees. Business and I/LT licensees properly object to this proposal because they will be unable to make sound decisions if they are uncertain how long they will be able to use the spectrum effectively.⁶⁶ Businesses need regulatory certainty so that they can plan for the future. This is not possible unless the licensee has primary status. As the comments demonstrate, imposing secondary status on Business and I/LT licensees in the 800 MHz band is unacceptable.

Moreover, utilities and other critical infrastructure licensees are particularly upset because secondary status directly conflicts with their critical need "for advance planning and

⁶⁶ See *e.g.* Comments of Boeing Company, WT Docket No. 02-55 at 7 (May 6, 2002).

system enhancement to help ensure safe and reliable service.”⁶⁷ They agree with the Commission’s tentative conclusion that it is not advisable to implement a system that would “precipitously discontinue [their] service.”⁶⁸ Other utilities share SCANA’s concerns that their communications can not be subject to interference and if they are required to shut down abruptly, critical services could be compromised. Even APCO recognizes that secondary status imposes a “potential hardship” for licensees that provide important communications for critical infrastructure industries.⁶⁹ The record clearly reflects that licensing spectrum on a secondary status is inconsistent with the utilities’ need for reliable and secure communications.

2. The Commentors Express Concern About The Ability To Access Replacement Spectrum

Under Nextel’s plan, Business and I/LT licensees would be relocated to the 700 or 900 MHz band. After reviewing this option, commentors found that this spectrum is inadequate because Nextel does not hold a nationwide license for any of the replacement spectrum that would be allocated for Business and I/LT licensees. There are many areas of the country where Nextel does not have sufficient spectrum holdings for Business and I/LT licensees. Although Nextel purchased the largest amount of spectrum in the 700 MHz band, the comments reveal that many licensees would not be able to relocate to the 700 MHz band because “substantial areas” would not be available for Business and I/LT licensees.⁷⁰

Nextel also attempted to obscure the fact that it does not have a nationwide license in the 900 MHz band by using the “running time analysis,” which focuses on the top 100 markets, to

⁶⁷ *Exelon Comments* at 6.

⁶⁸ *NPRM* at 34.

⁶⁹ *APCO Comments* at 21.

calculate its spectrum holdings. The running average does not take into account the smaller markets where Nextel has not purchased as much spectrum as in the metropolitan areas.⁷¹ Thus Nextel's running average of nearly 4 MHz of 900 MHz spectrum inflates its actual spectrum contribution. Furthermore, Nextel has not demonstrated that spectrum will be available in all markets where incumbents would be relocated

In exchange for a nationwide license, Nextel is proposing to give spectrum that is centered in metropolitan areas but that will not provide adequate coverage in all areas of the nation. As the comments show, utilities and other Business and I/LT licensees need spectrum throughout the *entire* country.⁷² Utilities provide service throughout their entire territory and cannot be limited because Nextel decided to focus its spectrum holdings in the metropolitan areas. Recognizing that its spectrum holding may be inadequate, Nextel has offered to obtain additional spectrum needed to relocate incumbent licensees.⁷³ It is unclear how this will be accomplished given the limited amount of spectrum available. In addition, Nextel fails to articulate what would happen if it is unable to provide spectrum.

Even if Nextel held a nationwide license for the 700 MHz spectrum, this spectrum does not constitute suitable replacement spectrum for licensees, who would be compelled to vacate the 800 MHz band immediately.⁷⁴ Any plan to utilize the 700 MHz band must account for the fact that broadcast licensees currently use the spectrum and it is therefore not available on a primary basis. Even Nextel recognizes that many Business and I/LT licensees would not be able to use

⁷⁰ See e.g. *Entergy Comments* at 39.

⁷¹ *Nextel Comments* at Appendix A.

⁷² See e.g. *Entergy Comments* at 36.

⁷³ *Nextel Comments* at 46.

this spectrum on a secondary basis.⁷⁵ Only “stand-alone private B/ILT and high-site SMR systems could relocate” immediately to the 700 MHz Guard Band.⁷⁶ Utilities, which comprise one of the largest segments of Business and I/LT licensees, will be unable to relocate to the 700 MHz band now because their systems are designed to cover large areas. As Nextel states in its comments, these types of systems “are most likely to be precluded by existing broadcast UHF television facilities.”⁷⁷ Nextel, by its own admission, has proposed a plan in which the critical infrastructure industries would be unable to have reliable and secure communications.

Commentors also agreed with SCANA that the 900 MHz band is inferior to the 800 MHz band because the propagation characteristics are worse and the bandwidth of the 900 MHz channels is half the bandwidth of the 800 MHz band. This could seriously impact operations by “reducing the maximum data throughput speed,” which would necessitate increasing the number of frequencies utilized to maintain the same level of service.⁷⁸ In addition, licensees “may be unable to carry the same type of traffic” on the 900 MHz band as they did on the 800 MHz band.⁷⁹ The comments show that if Business and I/LT licensees are relocated they “would likely be unable to provide the same coverage” in the 900 MHz band with their 800 MHz system.⁸⁰

⁷⁴ Comments of Ad Hoc Wireless Alliance, WT Docket No. 02-55 at 4-5 (May 6, 2002) (“*Ad Hoc Wireless Comments*”).

⁷⁵ *Id.* at 46 n.124.

⁷⁶ *Id.* at 7 n.15.

⁷⁷ *Id.* at 45.

⁷⁸ Comments of Sid Richardson Energy Services Co., WT Docket No. 02-55 at 3 (May 6, 2002).

⁷⁹ *Ad Hoc Wireless Comments* at 5.

⁸⁰ *Id.*

3. Nextel's Plan Is Unacceptable Because All 800 MHz Licensees, Including Public Safety Licensees, Will Have To Pay Some Of Their Relocation Costs

Under Nextel's proposal even Public Safety licensees would be required to contribute to their relocation costs. Specifically, Nextel states that "CMRS licensees should fund *the bulk* of the Public Safety's relocation costs and other licensees should be responsible for their own costs" (emphasis added).⁸¹ This statement suggests that Nextel does not expect CMRS licensees to finance the relocation of Public Safety licensees completely and other licensees would be responsible for their own relocation costs. Absent from Nextel's analysis is an estimate of how much Public Safety licensees would have to contribute to implement Nextel's plan. From the comments, however, it appears that Public Safety licensees believe that any contribution on their part is too much. For example, APCO and numerous Public Safety licensees insist "that any plan to move public safety operations must include provisions for full reimbursement of public safety agencies' costs."⁸²

4. Nextel's Plan Violates the Commission's Well Established Policy Of Reimbursing Licensees For The Costs Incurred In Relocating.

If the Commission adopts Nextel's proposal, Business and I/LT licensees would be involuntarily relocated yet still required to pay their own relocation expenses. The Commission's consistent policy, however, has been that the cost of an involuntary relocation should be placed on the shoulders of the party that benefits from the relocation.⁸³ This policy

⁸¹ *Nextel Comments* at 41.

⁸² *APCO Comments* at 22.

⁸³ *See In the Matter of Redesignation of the 17.7-19.7 GHz Frequency Band, Blanket Licensing of Satellite Earth Stations in the 17.7-20.2 GHz and 27.5-30.0 GHz Frequency Bands, and the Allocation of Additional Spectrum in the 17.3-17.8 GHz and 24.75-25.25 GHz Frequency Bands*

was recently affirmed by the Court of Appeals because it is consistent with the Commission's goal of providing incumbent licensees with sufficient funds "to allow them to resume their operations at a new location."⁸⁴ Congress even recognizes that the most equitable solution is to require the party that benefits from the relocation to pay the associated costs. In 1999, Congress passed legislation that requires federal agencies to be reimbursed for the costs they incur in making spectrum available for new licensees by the party receiving the benefit.⁸⁵ SCANA agrees with the American Petroleum Institute that "it would be grossly unfair and a departure from precedent to require . . . incumbents to retune or relocate their systems without compensation."⁸⁶

In this case, Nextel should reimburse licensees for their relocation costs because Nextel is the party that benefits from realigning the 800 MHz band. Nextel is causing the interference and is seeking to be relieved of its duty to resolve the problem. In addition, Nextel is also seeking contiguous spectrum in order to introduce a "broader range of technology options" that cannot be implemented on non-contiguous spectrum.⁸⁷ Any relocation costs that are incurred should be borne by Nextel because it is principal beneficiary of the realignment plans.

for Broadcast Satellite-Service Use, IB Docket No. 98-172, RM-9005, RM-9118, *Report and Order*, 15 FCC Rcd 13430 (2000), *aff'd*, *Teledesic LLC v. FCC*, 275 F.3d 75 (D.C. Cir. 2001).

⁸⁴ *Teledesic LLC v. FCC*, 275 F.3d 75, 86 (D.C. Cir. 2001).

⁸⁵ *Strom Thurmond National Defense Authorization Act for Fiscal Year 1999*, P.L. No. 105-261, 105th Cong. § 1064 (1998).

⁸⁶ *API Comments* at 14.

⁸⁷ SEC Form 10-K, Annual Report for the Fiscal Year Ended Dec. 31, 2001 at 14.

D. The FCC Should Address Any Additional Rebanding Plans in a Further Notice of Proposed Rulemaking

SCANA understands that a number of rebanding plans are in various stages of development and may be submitted in the record in this proceeding. To the extent that the FCC is inclined to consider any plans that have not been made a part of the record to date, SCANA urges the FCC to initiate a Further Notice of Proposed Rulemaking so that comments on these plans are open and accessible to all. The issues in this proceeding are too important to resolve key issues without full participation of all interested parties.

VI. IF REBANDING IS ULTIMATELY DEEMED NECESSARY, SCANA BELIEVES THE PROPOSAL TO RELOCATE PUBLIC SAFETY LICENSEES TO THE 700 MHZ BAND WOULD BE THE MOST EFFECTIVE SOLUTION

If the Commission decides it is necessary to adopt a realignment plan so that Public Safety licensees are no longer subject to harmful interference, the Commission should implement the plan that resolves the interference with minimal disruption to existing services. After reviewing the comments and the various proposals, SCANA believes that the Coalition for Constructive Public Safety Interference Solutions (the “Coalition”) has proposed the best solution to resolve the interference problems. Under this proposal, Public Safety licensees would be relocated to the 700 MHz band and the commercial spectrum in the upper 700 MHz band would be reallocated for Public Safety licensees. This will result in Public Safety licensees having 54 MHz of spectrum. The spectrum that Public Safety licensees are currently using would be auctioned and the proceeds would be used to relocate Public Safety licensees to the 700 MHz band. Relocating Public Safety licensees to the 700 MHz band is the best solution because the plan: (1) resolves the interference problems, (2) minimizes the burden on existing licensees,

(3) provides funding to relocate Public Safety licensees, and (4) provides additional spectrum for Public Safety licensees.

A. Relocating Public Safety Licensees To The 700 MHz Band Will Resolve The Interference Problem And Meet The Goals Of The Commission

As discussed above, commentors agree that any relocation plan that results in both Public Safety licensees and commercial providers occupying the 800 MHz band will not resolve the interference problems by itself. SCANA submits that any realignment plan the FCC adopts must provide a long-term solution that resolves the interference problems. SCANA agrees with AT&T Wireless that “rather than rejiggering the pieces of the current puzzle so that existing licensees are somewhat less likely to interfere with each other,” the Commission should relocate Public Safety licensees to the 700 MHz band. As the comments demonstrate, the proposal to move Public Safety licensees to the 700 MHz band “appears to be the least detrimental for incumbent 800 MHz operators,”⁸⁸ and has a number of advantages over other realignment plans.

First, this proposal would involve the allocation of a large amount of spectrum at 700 MHz, which will facilitate an earlier transition than would be possible under Nextel’s proposal. With 54 MHz of spectrum to work with, Public Safety entities would have significant flexibility to coordinate around incumbent broadcast licensee operations and to transition in stages as broadcasters left the band. In contrast, under Nextel’s plan Business and I/LT licensees would have *only 4 MHz of spectrum* at 700 MHz as a source of relocation spectrum. This would make it much more difficult to find spectrum that was not encumbered by broadcast licensees in a given area.

⁸⁸ Comments of Jamestown Communications Inc. and Midwest Management Inc., WT Docket No. 02-55 at 5 (May 6, 2002).

Additionally, the Coalition's proposal would allow for a smooth transition of Public Safety licensees to the 700 MHz band because their operations at 800 MHz would not be compromised by secondary status, as would those of Business and I/LT operations under Nextel's plan. Furthermore, Public Safety licensees would be able to maintain their current systems while developing parallel systems at 700 MHz. Licensees could effect cut-over in a way that best met their operational objectives.

Funding to relocate Public Safety operations is also provided under the Coalition's proposal. The Public Safety spectrum in the 800 MHz band would be auctioned and the proceeds from this auction would be used to fund the relocation of Public Safety licensees to the 700 MHz band. If the Commission expects that additional funds are necessary, Congress could allocate funds to help relocate Public Safety licensees.⁸⁹

Another alternative is for the Commission to adopt auction rules in which the 800 MHz auction winner must pay to relocate incumbent Public Safety licensees to the 700 MHz band. If the relocation costs are paid in this manner, it is not necessary to use public funds to relocate Public Safety operations and the Commission would still retain the auction proceeds.

Of the realignment proposals, the Coalition's proposal is probably the least expensive to implement. Under the other realignment proposals, Public Safety, Business, I/LT and CMRS licensees would all be relocated, at a cost of billions of dollars. Motorola estimated that Nextel's plan would cost almost \$4 billion dollars to relocate just Public Safety, Business and I/LT licensees.⁹⁰ The cost of relocating only Public Safety licensees would obviously be less.

⁸⁹ Comments of Cellular Telecommunications & Internet Association, WT Docket No. 02-55 at 8-9 (May 6, 2002) ("*CTIA Comments*").

⁹⁰ *Motorola Comments* at 24.

Furthermore, the relocation of all 800 MHz Public Safety licensees to 700 MHz would establish a definitive and robust market for equipment in that band because Public Safety already has 24 MHz of spectrum in that band. The extent of Business and I/LT migration to 700 MHz under the Nextel proposal would be limited and uncertain, given the relatively small amount of spectrum identified for relocation at 700 MHz and the fact the 900 MHz is also a relocation target. Motorola has begun the process of designing, manufacturing and marketing infrastructure, and portable and mobile radio products for use in the 700 MHz band.⁹¹ Implementation of the Coalition's plan would foster increased efforts to develop equipment for 700 MHz to meet the inevitable demand of Public Safety entities.

B. Numerous Commentors, Including Public Safety Licensees, Have Expressed Interest In This Proposal

A number of commentors expressed their support for this proposal. Cingular Wireless and Alltel Communications advocate relocating Public Safety licensees to the 700 MHz band because this proposal "provides numerous benefits to all licensees in the 800 MHz band."⁹² If realignment is necessary, CTIA recommends that "the optimal solution to Public Safety's requirements for interference-free and interoperable networks is to redeploy their systems in the 700 MHz band."⁹³ The Private Wireless Coalition⁹⁴ also found that at the 700 MHz band Public

⁹¹ Motorola to Design and Manufacture Equipment for Access Spectrum 700 MHz Guard Band Spectrum available at: http://www.accessspectrum.com/news_room/press_releases/oct_17_2001.htm (last viewed August 7, 2002).

⁹² Comments of Cingular Wireless LLC and Alltel Communications, Inc., WT Docket No. 02-55 at 19 (May 6, 2002).

⁹³ *CTIA Comments* at 9.

⁹⁴ The Private Wireless Coalition is comprised of the Aeronautical Radio, Inc. the Association of American Railroads; the Forest Industries Telecommunications, the Industrial

Safety licensees will “no longer have to concern themselves with intermodulation products and receiver overload interference . . . from licensees employing a cellular system architecture.”⁹⁵ Even the National Association of Manufacturers, which proposed its own realignment plan, recognizes that it is more appropriate to relocate Public Safety licensees to the 700 MHz band. NAM found that by relocating Public Safety licensees to the 700 MHz band, it would “achieve maximum separation from 800 MHz systems with a cellular architecture” and offers the best long term solution.⁹⁶

Some Public Safety licensees have also expressed interest in this proposal because they recognize that this proposal will resolve harmful interference.⁹⁷ APCO even requested that the 700 MHz band auction be delayed so that the Commission could “evaluate whether additional 700 MHz band public safety spectrum allocations would be appropriate.”⁹⁸

C. The Legislative Hurdles To The 700 MHz Plan Can Be Overcome

While the Coalition plan would require certain legislative measures before it could be implemented, Congress has continually been sensitive to the needs of the Public Safety

Telecommunications Association, MRFAC, Inc., the National Association of Manufacturers, the Personal Communications Industry Association, and Small Business in Telecommunications.

⁹⁵ Comments of Private Wireless Coalition, WT Docket No. 02-55 at 7 (May 6, 2002).

⁹⁶ Comments of National Association of Manufacturers and MRFAC, Inc., WT Docket No. 02-55 at 4 (May 6, 2002).

⁹⁷ See e.g. Comments of Bergen County Police Department; WT Docket No. 02-55 at 6 (May 6, 2002).

⁹⁸ Ex Parte Comments of the Association of Public-Safety Communications Officials International, Inc., WT Docket No. 99-168, GN Docket No 01-74 at 2 (May 2, 2002).

community.⁹⁹ In addition, Congress recognizes that the 700 MHz plan could resolve the interference problems. Congress has enacted legislation to postpone the 700 MHz auction so that the Commission would have an opportunity to consider the 700 MHz plan.¹⁰⁰ In the legislative findings, Congress specifically urges the Commission not to “hold the 700 megahertz auction before the 800 megahertz interference issues are resolved or a tenable plan has been conceived.”¹⁰¹ By enacting this legislation, Congress has clearly stated that the Commission should consider relocating Public Safety licensees to the 700 MHz band to resolve their interference problems. SCANA submits, based on the unique suitability of the plan as a solution to the problem of Public Safety interference at 800 MHz, that Congress will recognize that this is the most appropriate rebanding solution to eliminate harmful interference to Public Safety licensees and pass the necessary legislation.

VII. CONCLUSION

The comments voice near universal opposition to Nextel’s wasteful and self serving realignment plan as a “solution” to the problem of Public Safety interference. Additionally, there is significant agreement that radical measures are not warranted at this time but that, instead, a case-by-case approach is appropriate. SCANA urges the Commission to consider these comments and implement an approach that will most fairly and effectively serve the interests of all licensees in the 800 MHz band.

⁹⁹ For example, in 1997 Congress passed legislation to provide 24 MHz of spectrum for Public Safety services in the 700 MHz band. *Balanced Budget Act of 1997*, Pub. L. No. 105-33, 111 Stat. 251 § 3004 (1997).

¹⁰⁰ *Auction Reform Act of 2002*, Pub. L. No. 107-195, (2002).

¹⁰¹ *Id.* at § 2(4)

WHEREFORE, THE PREMISES CONSIDERED, SCANA respectfully requests that the Commission consider these comments and proceed in a manner consistent with the views expressed herein.

Respectfully submitted,

SCANA CORPORATION

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Dated: August 7, 2002

CERTIFICATE OF SERVICE

I, Christine S. Biso, do hereby certify that on this 7th day of August 2002, I caused a copy of the foregoing "Reply Comments of SCANA Corporation," to be hand-delivered to each of the following:

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